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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,475	04/13/2001	Paul L. Mullen	GEMS8081.070	7317
27061 7590 12/14/2007 ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (GEMS) 136 S WISCONSIN ST PORT WASHINGTON, WI 53074			EXAMINER LANEAU, RONALD	
			ART UNIT	PAPER NUMBER
			3714	
			NOTIFICATION DATE	DELIVERY MODE
			12/14/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/681,475
Filing Date: April 13, 2001
Appellant(s): MULLEN ET AL.

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DEC 12 2007

Group 3700

Timothy J. Ziolkowski
Kevin R. Rosin

For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed on 10/15/07 appealing from the Office action mailed 03/07/07.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,182,249	WOOKEY	1-2001
6,317,639	HANSEN	11-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 7-9, 11-14, 16-19 and 21-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Wookey et al (US 6,182,249 B1).

Wookey discloses a system and method for remotely managing communication of electronic data between a diagnostic service center and a plurality of machines generally remote relative to each other (see claim 12) including the steps of: remotely collecting condition data representative of a device status (col. 12, lines 14-26); storing the condition data on a database a centralized facility (fig. 1, 109; storing data in a centralized diagnostic database); reviewing the condition data to identify at least the device diagnostic data and the device reminder data (col. 1, lines 28-53; this is typical for an operator of the system or a supervisor to review the diagnostics); and separately displaying and identifying on a graphical user interface (GUI) the device diagnostic data and the device reminder data (col. 16, lines 41-58; alerting of the schedule repair). Wookey further discloses that the statistic log may be configured so that the graphical user interface allows for user-friendly manipulation of data and for example generation of reports

may be implemented in graphical and/or tabular format with electronic editing, copying, cutting and pasting options (table 1 seen in cols. 4 and 5 allow a user to see the statistics for repair and the reports can have different formats and one would be able to edit, copy, cut and paste and may be distributed weekly, monthly, etc based on the log of diagnostic statistics and the report may be configured to be distributed through the Internet or an intranet via a predetermined Web server). The system of Wookey is inherently capable of being programmed to acquire the condition data and the reminder data via a wireless system seen in figure 1 and also allow operators to monitor downloads in process and/or in queue and identify the type of download as claimed (see fig. 1). Wookey further discloses the steps of storing data processing of components on components of an equipment, said data processing system associates at least one predictive maintenance factor with the corresponding component data, a scheduler schedules maintenance for a maintenance time period for at least one of the components based on the first database (col. 15, line 66 to col. 16, line 15), the second database, the associated predictive maintenance factor, and an elapsed time with respect to an installation date of at least one component, said predictive maintenance factor may be defined by one or more of the following: a longevity estimate, a probability of failure, a financial estimate on maintenance of a component (col. 15, line 66 to col. 16, line 15). The system of Wookey can be used in a medical environment and also uses Internet to access data and monitors the plurality of machines.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 5, 6, 10, 15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wookey et al (US 6,182,249 B1) in view of Hansen (US 6,317,639 B1).

As per claims 2, 5, 6 and 10, the rejection of claim 1 applies. Wookey does not disclose updating the data but Hansen discloses updating the maintenance file record to reflect the diagnosis, the schedule for service, etc (col. 5, lines 42-49).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the teachings of Hansen into the system of Wookey because it would provide ways to track diagnostic data of devices to ensure they are in proper working order.

As per claims 15 and 20, none of the references teaches marketing data, customer-entered data, and messages are consolidated. However, these differences are only found in the nonfunctional descriptive material and do not alter how the information is consolidated. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ 2d 1031 (Fed Cir 1994). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to consolidate marketing data, customer-entered data, and messages because the type of information being consolidated does not patentably distinguish the claimed invention.

(10) Response to Argument

Applicant's arguments filed on 12/19/06 have been fully considered but they are not persuasive.

Applicant argues that Wookey does not disclose “separately displaying and identifying” device diagnostic data and device reminder data for a remote device on a GUI. In response to Applicant’s arguments, Wookey discloses in figure 12 a system visualization screen that provides graphical representation of a host state that displays and identifies diagnostic data as claimed (see fig. 12). Applicant further argues about “reminder data” that is based upon some predetermined information. In response to Applicant’s arguments, Wookey discloses an alert system that indicated predefined conditions existed in a computer system. Since the condition is preset in the disclosure of Wookey then the alert system of Wookey can be used as a reminder system as claimed. The same reasoning is also applicable to Applicant’s arguments with regard to claim 9.

(11) Related Proceeding(s) Appendix

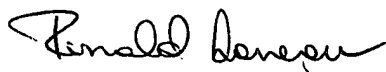
No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Ronald Laneau


Conferees:

 Robert Pezzuto


JOHN M. HOTALING, II
PRIMARY EXAMINER

Andrew Fischer


for Drew Fischer

Application Number 	Application/Control No. 09/681,475 Ronald Laneau	Applicant(s)/Patent under Reexamination MULLEN ET AL. Art Unit 3714
Document Code - AP.PRE.DEC		

Notice of Panel Decision from Pre-Appeal Brief Review



This is in response to the Pre-Appeal Brief Request for Review filed 6/7/07.

1. ☐ **Improper Request** – The Request is improper and a conference will not be held for the following reason(s):

- ☐ The Notice of Appeal has not been filed concurrent with the Pre-Appeal Brief Request.
- ☐ The request does not include reasons why a review is appropriate.
- ☐ A proposed amendment is included with the Pre-Appeal Brief request.
- ☐ Other: _____

The time period for filing a response continues to run from the receipt date of the Notice of Appeal or from the mail date of the last Office communication, if no Notice of Appeal has been received.

2. ☒ **Proceed to Board of Patent Appeals and Interferences** – A Pre-Appeal Brief conference has been held. The application remains under appeal because there is at least one actual issue for appeal. Applicant is required to submit an appeal brief in accordance with 37 CFR 41.37. The time period for filing an appeal brief will be reset to be one month from mailing this decision, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of this decision or the receipt date of the notice of appeal, as applicable.

☒ The panel has determined the status of the claim(s) is as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-34.

Claim(s) withdrawn from consideration: _____

3. ☐ **Allowable application** – A conference has been held. The rejection is withdrawn and a Notice of Allowance will be mailed. Prosecution on the merits remains closed. No further action is required by applicant at this time.

4. ☐ **Reopen Prosecution** – A conference has been held. The rejection is withdrawn and a new Office action will be mailed. No further action is required by applicant at this time.

All participants:

(1) Ronald Laneau *RL*

(2) Andrew J. Fischer *AF*

John Hstaling
 (3) John Hstaling
 (4) John Hstaling